

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BRIAN MORRIS, JAMES HARRIS,  
GENTILE TABOR, and MARCUS  
WASHINGTON,

Plaintiffs,

v.

VILLAGE OF ROBBINS, et al.,

Defendants.


No. 01 C 6799

Judge Samuel Der-Yeghiayan

NOTICE OF FILING

To: Michael Latz  
Bollinger, Ruberry & Garvey  
500 W. Madison, Suite 2300  
Chicago, IL 60661

PLEASE TAKE NOTICE that on July 1, 2004, I will file with the Clerk for the United States District Court, Northern District, Eastern Division, at 219 S. Dearborn, Chicago, Illinois, Plaintiffs' Motion In Limine, a copy of which are herewith attached and served upon you.

  
Michael J. Levinsohn  
200 W. Superior Street, Suite 210  
Chicago, Illinois 60610  
(312) 943-3931

CERTIFICATE OF SERVICE

Under penalties of perjury as provided in 28 U.S.C. §1746, the undersigned certifies that he served copies of the above and foregoing notice together with copies of the documents therein referred, to each party to whom this Notice is directed by mailing the aforementioned documents on or before July 1, 2004, at 5 p.m. by U.S. Mail first class postage prepaid.



DOCKETED  
JUL 02 2004

FILED  
MICHAEL W. DEBBARD  
CLERK, U.S. DISTRICT COURT  
JUL 02 2004

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BRIAN MORRIS, JAMES HARRIS,  
GENTILE TABOR, and MARCUS  
WASHINGTON,

Plaintiffs,

v.

VILLAGE OF ROBBINS, et al.,

Defendants.

No. 01 C 6799

Judge Samuel Der-Yeghiayan

FILED  
JUL 02 2004

**PLAINTIFFS' MOTION IN LIMINE**

I. The Plaintiffs Morris, Harris, Tabor, and Washington, by their attorneys, Holzman & Levinsohn, move the Court to direct the Defendants and their counsel not to mention before the jury during voir dire, opening statements, examination of witnesses, or closing arguments the following topics:

1. The Defendants and their counsel shall not make mention of any of Brian Morris's felony convictions. At Mr. Morris's depositions, counsel for the Defendants questioned Mr. Morris about two felony convictions. The first conviction was in 1991 for involuntary manslaughter for which Mr. Morris received a 21 month sentence. This conviction is not admissible for purposes of impeachment under 609 because Mr. Morris was released from custody more than 10 years ago. The second conviction was in 2000 for possession of less than 2 grams of a controlled substance. This conviction is not admissible for purposes of impeachment under 609 and 403. Under rule 403, the probative value of this conviction is substantially outweighed by the prejudice to Mr. Morris. The conviction has little bearing on Mr. Morris' truthfulness because it is 4 years old, for a class 4 felony (the least serious class in Illinois), for which Mr. Morris admitted his guilt. The unfair prejudice is that such evidence would bias the jury against Mr. Morris because he has used illegal drugs.

2. The Defendants and their counsel shall not mention that Brian Morris was a member of the Gangster Disciples. According to deposition testimony, Mr. Morris was a gang member from 1992 to 1995. Evidence of such affiliation is not probative of any issue at trial and is not admissible under Rule 402.

3. The Defendants and their counsel shall not make mention of the Illinois State Police photograph of a beer bottle contained in a paper bag while in the car in which the Plaintiffs were traveling. None of the Plaintiffs were issued a citation as a result of the that beer bottle. None of the Defendants mentioned during their deposition testimony that they took any action as a result of the beer bottle. Their has been no testimony that anyone drank from that beer bottle. There has been no testimony or evidence that the beer bottle contained any alcohol at the time the picture was taken. There has been no testimony that the beer bottle as pictured in the photograph was in the same location and condition at the time of the shooting. The photograph is not probative of any triable issue and is inadmissible under Rule 402.

4. The Defendants and their counsel shall not mention Mr. Tabor's felony conviction from 1988 or 1989 (the date of conviction is unclear from the deposition testimony) as it is not admissible under Rule 609.

5. The Defendants and their counsel shall not make mention of Mr. Tabor's tatoos as they are not relevant and inadmissible under Rule 402.

6. The Defendants and their counsel shall not make mention of Marcus Washington's felony conviction from his arrest for possession of a controlled substance in 1994. It is unclear whether the conviction is over 10 years old and barred by 609(b). If the conviction is not barred, the probative value of this 9 year old conviction is substantially outweighed by unfair prejudice and inadmissible under 403.

11. The Plaintiffs further move the Court to allow the reading at trial of the attached, redacted, copy of James Harris's deposition pursuant to Federal Rule of Civil Procedure 32(a)(3)(C), (4)(c). James Harris is currently imprisoned by the Illinois Department of Corrections at the Robinson Correctional Center. (see attached IDOC information).

Respectfully submitted,



Michael J. Levinsohn  
Attorney for the Plaintiffs  
200 W. Superior St., Suite 210  
Chicago, Illinois 60610  
(312) 943-3931

*See Case  
File For  
Exhibits*